



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 1485-00
28 September 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 5 May 1999 at age 22. The record shows that on 30 June 1999 you told a psychologist that you consumed beer and liquor daily and had occasionally been intoxicated since age 12. In addition, you reported other symptoms of substance abuse and dependence. You also said that you had been diagnosed with learning disabilities and placed in special education classes during your school career. Based your statements, you were diagnosed as being alcohol dependent and having a learning disorder.

Based on the foregoing diagnoses, you were processed for an administrative separation due to an erroneous enlistment. In connection with this processing, you elected to waive your procedural rights. On 7 July 1999 the separation authority directed an entry level separation. You were so separated on 26 July 1999. At that time, you were not recommended for

reenlistment and were assigned an RE-4 reenlistment code.

An individual is separated due to erroneous enlistment when there are factors such as alcohol abuse or dependence which, had they been known at the time, would have prevented enlistment. Regulations allow for the assignment of an RE-4 reenlistment code in cases such as yours.

In support of your request for a change in the reenlistment code you have submitted an evaluation from a treatment counselor concerning your chemical dependency. The evaluation states, in part, as follows:

... The data ... obtained throughout the interview and patient's self reported data is insufficient to support the Diagnostic Impression of Chemical Dependence/Abuse. Patient does not meet the criteria for Alcohol Dependence or Alcohol Abuse.

In reaching its decision, the Board noted that the alcohol abuse you reported while in the Navy was sufficient to support the diagnosis of alcohol dependence. Therefore, it appears that you may have provided the treatment counselor with a different history of your alcohol abuse. There is no evidence in the evaluation you submitted to show that the Navy's evaluation was considered. However, if the evaluation you submitted is correct, then it appears that you misrepresented your alcohol abuse in order to obtain separation from the Navy. The Board is aware that it is well settled in the law that an individual who perpetrates a fraud in order to gain separation should not benefit from the fraud when it is discovered. Given the circumstances, the Board concluded that your separation from the Navy was proper and a change in the reenlistment code is not warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval

record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director